HONOURABLE SRI G.S.SINGHVI

THE CHIEF JUSTICE

AND

HONOURABLE SRI JUSTICE

G.BHAVANI PRASAD

WRIT APPEAL No. 46 OF 2006

Between:

1. M.Muthaiah (died)

2. Manikonda Sayamma (LR)

… Appellant

And

The Joint Collector, R.R. District,

Khairatabad, Hyderabad and others.

… Respondents.

::JUDGMENT::

Counsel for appellant : Shri U. Muralidhar Rao

Counsel for respondent Nos.1 to 3 : Government Pleader

for Revenue

Counsel for respondent Nos.5 to 8 : Shri Manoj Kumar Shah

31st January, 2006

Per G.S.Singhvi, C.J.

This appeal is directed against order dated 30.8.2005 passed by the learned Single Judge whereby he declined to entertain the prayer made by the appellant's husband late Sri M.

Muthaiah for quashing order dated 2.3.2002 passed by Joint Collector, Khairatabad, Hyderabad, Ranga Reddy District (respondent No.1) in Case No.D5/5312/1995.

For deciding the question arising in the appeal, we may briefly notice the facts.

Late Sri S. Venkata Chary (predecessor of respondents No.5 to 8) is said to have purchased 33 guntas of land comprised in Survey No.59 of Gachibowli Village from Manikonda Muthaiah under an agreement of sale dated 16-12-1975. After sometime, he filed an application before Mandal Revenue Officer, Serilingampally Mandal under Sectioin 5-A of the Andhra Pradesh Record of Rights in Land and Pattedar Pass Books Act, 1971 (for short 'the Act') for regularization of the agreement of sale. After issuing notice to the appellant's husband, the Mandal Revenue Officer passed order dated 30-4-1992 for regularization of the sale document with effect from 24-8-1984. On appeal, Revenue Divisional Officer, Chevella Division, Ranga Reddy District quashed the order of the Mandal Revenue Officer. Late Sri S. Venkata Chary challenged that order by filing revision under Section 9 of the Act. By an order dated
2-3-2002, respondent No.1 allowed the revision and quashed the order passed by the Revenue Divisional Officer as also the order passed by the Mandal Revenue Officer and remanded the case to the latter for de novo enquiry and decision.

Shri Unnam Muralidhar Rao, learned counsel for the appellant made strenuous efforts to persuade us to hold that the learned Judge committed error by refusing to entertain the plea of late Sri M. Muthaiah that the Mandal Revenue Officer did not have the jurisdiction to entertain the application filed by the predecessor of respondent Nos. 5 to 8 for regularization of the agreement to sell. Learned counsel invited our attention to notification dated October 10, 1991 issued by the Government of Andhra Pradesh for changing the character of the land in dispute and argued that in view of that notification, the land in question cannot be treated as falling within the ambit of Section 2(4) of the Act entitling the Mandal Revenue Officer to make any investigation into the claim made by the predecessor of respondents 5 to 8.

We have given serious thought to the argument of the learned counsel, but have not felt persuaded to agree with him.

In our opinion, the learned Judge did not commit any error by refusing to entertain the challenge of Sri M. Muthaiah because he had already participated in the de novo proceedings undertaken by the Mandal Revenue Officer in pursuance of order dated 2.3.2002 passed by respondent No.1. Admittedly, the writ petition was filed after one year

and nine months of the passing of order dated 2.3.2002 by respondent No.1 and during that period, the predecessor of the appellant had not only appeared before the Mandal Revenue Officer through his Advocate, but also took part in the proceedings initiated at the instance of predecessor of respondents 5 to 8. In this view of the matter, it must be held that the learned Single Judge rightly dismissed the writ petition with the observation that the petitioner may raise objection to the jurisdiction of the Mandal Revenue Officer to entertain the application made by late Sri S. Venkata Chary.

For the reasons stated above, the appeal is dismissed. However, liberty is given to the appellant to raise specific objection before the Mandal Revenue Officer that he does not have the jurisdiction to entertain and determine the claim made by late Sri S.Venkatachary, predecessor of respondents 5 to 8 because nature of the land has undergone change by virtue of the Government notification dated 10.10.1991. We hope and trust that the Mandal Revenue Officer will consider the objection of the appellant in the light of the legal position which may be brought to the notice by the parties and decide the same as early as possible but latest within three months from the date of filing of objection.

G.S.SINGHVI, C.J.

31.1.2006.

G.BHAVANI PRASAD, J.

VR / svs